

Before the
Administrative Hearing Commission
State of Missouri



BRIDGET QUINLISK,)	
)	
Petitioner,)	
)	
vs.)	No. 14-1033 EC
)	
MISSOURI ETHICS COMMISSION,)	
)	
Respondent.)	

DECISION

Bridget Quinlisk is subject to a late filing fee of \$280.00.

Procedure

On June 23, 2014, Quinlisk filed a complaint appealing the Missouri Ethics Commission's (the "MEC") determination that, as an elected member of a political subdivision with an annual operating budget of over one million dollars, she failed to file a personal financial disclosure statement ("PFD") by the deadline of May 1, 2014, and is subject to a late fee of \$10 per day pursuant to § 105.963.3.¹ The MEC filed its answer on July 17, 2014, and it filed a motion for summary decision, memorandum in support, and exhibits on September 8, 2014. We gave Quinlisk until September 24, 2014 to respond to the MEC's motion, but she failed to respond.

¹ RSMo Supp. 2013. Statutory references are to the 2000 Revised Statutes of Missouri unless otherwise noted.

Pursuant to 1 CSR 15-3.446(6),² we may decide this case without a hearing if the MEC establishes facts Quinlisk does not genuinely dispute and entitle the MEC to a favorable decision. Facts may be established by admissible evidence such as a stipulation, pleading of the adverse party, discovery response of the adverse party, affidavit, or any other evidence admissible under law. 1 CSR 15-3.446(6)(B). The MEC's motion is accompanied by documentary evidence, including authenticated business records of the MEC. Therefore, we make our findings of fact based on this admissible evidence, along with Quinlisk's complaint.

Findings of Fact

1. At the time this appeal was filed, Quinlisk was an elected member and the Director of the Northeast Ambulance and Fire Protection District ("District").
2. The District is a political subdivision of the State of Missouri.
3. At all relevant times, the District had an annual operating budget exceeding one million dollars.
4. The District has not provided to the MEC a certified copy of an ordinance, order, or resolution passed pursuant to § 105.485.4 making public its own method of disclosing potential conflicts of interest and substantial interests of its officers and employees.
5. As an elected official of the District, Quinlisk was required to file a PFD with the MEC no later than May 1, which in 2014 was a Thursday.
6. On May 29, 2014, Quinlisk electronically filed, signed, and verified her annual PFD with the MEC.
7. On May 30, 2014, the MEC sent Quinlisk a late fee assessment notice stating she owed a late fee of \$280.00.

² All references to the CSR are to the Missouri Code of State Regulations as current with amendments included in the Missouri Register through the most recent update.

8. On June 18, 2014, Quinlisk sent an appeal letter (the complaint) to the MEC, which forwarded the letter to this Commission to initiate an appeal. The complaint was filed with this Commission on June 23, 2014.

Conclusions of Law

We have jurisdiction of this matter. § 105.961.3. Section 105.961.3 is silent regarding the burden of proof. As a general proposition of administrative law, the party seeking a change is “the ‘moving party’ or the party having the affirmative of the issue,” and so bears the burden of proof. *Tonkin v. Jackson Co. Merit System Comm’n*, 599 S.W.2d 25, 31 (Mo. App. W.D. 1980). Here, Quinlisk seeks a change, that is, to have us reverse the agency’s decision to fine her \$280.00 for filing her PFD late. Therefore, we conclude Quinlisk bears the burden of proof.

We follow the same law that the MEC must follow and render, on the evidence before us, the agency’s final decision. *Mo. Ethics Comm’n v. Wilson*, 957 S.W.2d 794, 798-99 (Mo. App. W.D. 1997); *Impey v. Mo. Ethics Comm’n*, 2014 WL 2866487, *4 (Mo. banc, June 24, 2014) (slip op.).

The MEC contends Quinlisk is subject to a late fee of \$280.00 for failing to timely file a PFD as required by § 105.483, which provides, in pertinent part:

Each of the following persons shall be required to file a financial interest statement:

* * *

(11) Each elected official, candidate for elective office, the chief administrative officer, the chief purchasing officer and the general counsel, if employed full time, of each political subdivision with an annual operating budget in excess of one million dollars, and each official or employee of a political subdivision who is authorized by the governing body of the political subdivision to promulgate rules and regulations with the force of law or to vote on the adoption of rules and regulations with the force of law; unless the political subdivision adopts an ordinance, order or resolution pursuant to subsection 4 of section 105.485[.]

Section 105.487 provides when Quinlisk was required to file:

The financial interest statements shall be filed at the following times, but no person is required to file more than one financial interest statement in any calendar year:

* * *

(3) Every other person required by sections 105.483 to 105.492 to file a financial interest statement shall file the statement annually not later than the first day of May[.]

Quinlisk does not dispute that she was required to file her statement with the MEC according to § 105.483. The record reflects that the MEC made at least two attempts, in the month of May, to notify her and the District that she had failed to meet the deadline, but she still did not file the PFD with the MEC until May 29, 2014. In her appeal, Quinlisk asks that we consider her personal circumstances and forgive her obligation to pay the late fees. She states that because she has recently moved several times, she did not receive the MEC's reminder notices. We sympathize, but we cannot change the law to address her special circumstances, no matter how compelling they might be.

Attempts at notice by the MEC notwithstanding, individuals are presumed to know the law, and ignorance of the law is not an excuse for failing to follow it. *In re Estate of Pittman*, 16 S.W.3d 639, 643 (Mo. App. W.D. 2000). Regardless of any personal circumstances that may have impeded Quinlisk's receipt of the MEC notifications, she was obliged to timely file a financial interest statement.

The MEC is required to assess late fees pursuant to § 105.963.3, which provides:

The executive director [of the MEC] shall assess every person required to file a financial interest statement pursuant to sections 105.483 to 105.492 failing to file such a financial interest statement with the commission a late filing fee of ten dollars for each day after such statement is due to the [MEC.]

Because this Commission was created by state statutes, we have only such authority as the statutes give us. *State Bd. of Reg'n for the Healing Arts v. Masters*, 512 S.W.2d 150, 161 (Mo. App., K.C.D. 1974). We do not have authority to add to or subtract from the terms of the statutes or to make an exception. *Lynn v. Director of Revenue*, 689 S.W.2d 45, 49 (Mo. banc 1985). Section 105.963.3 does not give the MEC or this Commission discretion to waive the late fee if a financial interest statement is not timely filed. Therefore, we assess Quinlisk a late fee of \$10.00 for each day her PFD was late, or a total of \$280.00.

Summary

We grant the MEC's motion for summary decision. Quinlisk is subject to the MEC's assessment of a late fee in the amount of \$280.00 for filing her financial interest statement twenty-eight days after the May 1, 2014 deadline. We cancel the hearing.

SO ORDERED on October 6, 2014.

/s/ Karen A. Winn

KAREN A. WINN
Commissioner